

**Valparaiso Board of Zoning Appeals
Regular Meeting Minutes
March 15, 2023**

The regular meeting of the Valparaiso Board of Zoning Appeals was held at 5:30 p.m. on Wednesday March 15, 2023, at Valparaiso City Hall, 166 Lincolnway, Valparaiso, Indiana. Remote access was available via livestream on the Valparaiso City Website. Kyle Yelton presided. The Pledge of Allegiance was said. Members present were Diane Worstell, Bill Oeding, Paul Reed, Kyle Yelton, and Mark Ribordy. Also present were Beth Shrader, Jessica Gage, Attorney Patrick Lyp, and petitioners.

MINUTES

Adoption of Meeting Minutes – January 18, 2023

Motion: Paul Reed moved to approve the minutes from January 18, 2023. Mark Ribordy seconded the motion and so approved with a 5-0 voice vote.

Old Business - None

New Business

VAR23-001

A petition filed by Hilltop Neighborhood House Inc. c/o Todd A. Leeth (Hoepfner Wagner & Evans LLP). The property is located at 608 Union Street in a Residential Transition (RT) Zoning District. The petitioner requests the following variance(s):

- Table 3.301B – To reduce Landscape Surface ratio from 60% to 52%;
- Table 3.301B – To increase maximum FAR (Gross FAR from 0.203 to 0.213; Net FAR from 0.507 to 0.532);
- Table 9.201 – To reduce parking count from 8 to 6; and
- Table 3.505 – To reduce rear yard setback from 30ft to 27ft.

Todd Leeth presented on behalf of Hilltop. He was joined by Adam McAlpine and Jennifer Wright. These are developmental standards variances so Hilltop can add a soup kitchen to a lot they recently purchased at 608 Union Street. For zoning purposes, they are combining the two parcels. They are in the process of doing that through the county taxing authorities. Hilltop is an existing tax exempt entity and the existing food pantry is already tax exempt. The property at 608 Union is not tax exempt yet. Once they are both tax exempt they can merge the two parcels. For zoning purposes, he is treating both parcels as one. He showed pictures indicating the two parcels and the neighboring parcels. There is a small rainwater detention area to the rear for stormwater. Parking is off the alley in the back. This has been site reviewed. This is in a Residential Transition zoning district between the university and downtown. Adjacent to the east is a Campus zoning district. Hilltop needs four developmental standard variances.

Regarding the reduced landscape surface ratio proposal: They are expected to have 60% and they are only at 52%. The lot in question has a 35' notch. The missing notch is where you would have found more open space or landscaping. The shape of the lot is unique and would justify granting the variance. The landscaping ratio is consistent with the area.

Regarding the increased Floor Area Ratio (FAR) proposal: This is a ratio between the size of the buildings and the size of the parcel. Again, they are missing 35' off of the one lot. The ratio is hundredths of a percent off.

Regarding a proposed reduction in parking count from 8 to 6 spaces: They had anticipated they would need 8 parking spaces. They only need 7. The square footage of the buildings trigger parking requirements. The calculations come up to 6 spaces and then one company vehicle for a total of 7. They are providing for 6. The visits to the soup kitchen will be short. A majority of the clients walk to the kitchen. The soup kitchen and food pantry will not be operating at the same time.

Regarding the proposed reduction of rear yard setback from 30' to 27'. This is requested because of the 35' notch.

Jennifer Wright addressed the Board. Hilltop is a non-profit organization. Non-profits are obligated to their mission. It has been in existence for 27 years and provided low income child care so parents can stay gainfully employed and become more financially stable. When the community called for it, they added a food pantry. This is the largest food pantry in the region. They have added a community garden, mobile food pantry, and this spring hopefully they will be adding the soup kitchen. Food insecurity exists in every community. They have raised 125% of this project through sponsors and donors. Jennifer thanked Beth and her staff for supporting this project. The land is shovel ready. The soup kitchen will help the 1,800 visitors they get every month. Many of their visitors cannot carry their own groceries. They provide all types of carts for that. She asked everyone in the audience to stand if they are for this project. Everyone stood.

Beth Shrader – The notch in the southeast corner is the driving force of the non-compliance issue. She noted that a residence could be this big or bigger with no variances. She has observed the parking demand. There is no demand. This does not present a challenge to the neighborhood. Hilltop is good for the community. Staff is supportive of the variances presented.

Public Hearing

David Reynolds – 2502 Manchester. There is a need for this. It will improve a lot of people's lives.

Hope Smith – 606 Brandenburg. She is a Hilltop volunteer and works at Health Linc. Every day at HealthLinc, they meet patients who are food insecure.

Jesse Harper – Center Township Trustee. The soup kitchen is needed. This is very needed in the community. Hilltop is very well respected. The Trustee’s Office has received ARPA money which they have donated to Hilltop.

Matty Whaling – 157 Chicago Street. He has partnered with Hilltop as much as possible over the years. He appreciates the consideration and continued support of Hilltop.

Lisa – 302 Randall. She rides her bike in this area. She sees people walking to Hilltop all the time.

Kaye Frataccia-Seibert – 155 Chicago Street. She is on the Board of Hilltop. As a teacher she saw kids come to school hungry. She has seen when they come with food; it changes their lives. Hilltop does address hunger, but they try to change the person for the better. Hilltop will have classes teaching people how to cook. The tables will be round so no one is more powerful than another.

Joe – 1707 Evans Avenue. He is a Hilltop volunteer. They help the children and senior citizens. Both are treasures. They need what Hilltop is doing.

Drew Wenger – 1651 Sherwood Drive. He is in support of this project. He is a real estate appraiser. He feels these variance requests are minor. He doubts they would impact the value of the neighboring property. Hilltop means a great deal for so many in this community. He hopes the Board approves these variances so the project can move forward.

Cindy – 1002 Woodcrest. She is a Board member and volunteers at the Food Pantry. It has been eye opening to see the need that is present for food. People can come 24 hours a day to the food pantry. It needs to be restocked every day. The community needs this soup kitchen.

Dale Graber – 236 S 200 W. This Hilltop crew is phenomenal. He has witnessed kids very excited about getting sweet corn.

Seeing no one else wishing to address the Board, Kyle Yelton declared the Public Hearing closed.

Questions/Comments from the Board.

Paul Reed – The notch out of this parcel is unique. He has no problem with the request.

Bill Oeding – His concern is parking. For years it has been said that parking in this area is a problem. What are the hours of operation for the soup kitchen? What is going to happen there? How many people do you anticipate serving?

Jennifer Wright – Right now, the pantry is open Monday evening and Thursday morning. They will be switching those hours to Tuesdays and Thursdays. Evening hours will be approximately

4:30 to 6:30 p.m. Morning hours will be 9:00 to 11:00 a.m. The soup kitchen will be open two hours on Monday and Wednesday. If it goes well, they will add Friday. They can seat 40 at a time.

Bill Oeding – His concern is comparing it to Saint Theresa’s. There are a lot of cars when they have their meals.

Jennifer Wright – Saint Theresa’s caters to the people who can drive to the meal. Hilltop will have the people who do not have cars and they will be walking to the facility.

MOTION: Paul Reed moved to approve VAR23-001. Mark Ribordy seconded the motion and so approved with a 5-0 roll call vote.

Roll Call Vote:

Paul Reed – Yes	Bill Oeding –Yes
Mark Ribordy – Yes	Diane Worstell – Yes
Kyle Yelton – Yes	

UV23-001 and VAR23-002

A petition filed by Curfin Property Holding Inc. c/o McMAHON Associates Inc. The property is located at 2052 Morthland Drive in a Commercial General (CG) Zoning District; it is also partially within the US 30 (Morthland Drive) Signature Corridor Overlay. The petitioner requests the following variance(s):

- Section 11.305(D) – To allow additional outdoor storage of operable vehicles for sale;
- Section 11.305(L) – To reduce Landscape Surface Ratio coverage from 25% to 18.1% (per plan); and
- Section 10.301 – To reduce required on-lot landscaping for the new project area (per plan) to 0 additional plantings.

Doug Homeier of McMahan addressed the Board on behalf of Currie Ford. The business is growing. They have no other place to put cars. The landscaping would prevent looking at the cars while driving by. The trees would put sap on the cars. This site is number one in the Chicagoland area. They need the space to put inventory so they can continue to sell cars to the public. He has been working with Matt Zurbriggen and everything from an engineering standpoint for the site is fine through the Engineering Department.

Public Hearing

Richard Anderson – 2607 William Drive, Valparaiso. He represents CW East Land Owner LLC; they own Wise Guys, which is west of the property being discussed tonight. That store was built in 2019. The City wanted an easement across the back of the property. Where the drainage comes out from Wiseway, it went to the east. There was an initial easement but the City wanted another easement. He got a letter from the Petitioner. They said they would give

his client an easement. When it came time for the easement, they denied the easement. One of the issues is the credibility of the Petitioner. He handed out maps that gave the history of the property. On the first map, there is gravel in the back of the lot. There is a section on the right-hand side that is vacant. That is grass. The Google Earth map is 2015. It shows the same thing. At that time Wise Guys next door is not built. The 2019 Google Earth map does not show Wise Guys. But the whole back is packed with cars and the gravel has been extended to the property line. The 2020 map shows the grassy area next to the Chevy dealer is now asphalt. Then on the image it shows they park on the asphalt and all the way to the property line in the rear. The most recent map shows they are against the edge of the property. No permits have been issued for any of this work. The 2022 drawing shows what McMahon is proposing. There is a 20' space on the east side. There is also space in the back and they show drainage going along the side. He showed pictures taken this morning with cars backed up against the edge of the parking lot and out into the grass. There are cars parked between the evergreens. This is a total over utilization of the lot. They have had no regard for the City's rules and regulations. They have over-utilized the property. They are starting to impact the area around them. When you look at it, there are cars parked everywhere. If you look at the statutes the BZA follows, some of them are that the condition has to be peculiar to the property and you cannot create your own hardship and then come in here. They have created their own hardship. Each business down this line has a detention pond. McMahon shows a swale, but that is all they are showing. The pictures from this morning show they have cars parked in that area. If the Board is going to approve this, then he feels they should:

1. Limit the number of cars that can be on this lot. You can't continue to pack cars into something that doesn't fit.
2. Require a detention pond like every other business in the area.
3. Make them give the City an easement across the back of the property. When they are not retaining water, everyone else is doing it for them.

Seeing no one else wishing to address the Board, Kyle Yelton declared the Public Hearing closed.

Rebuttal from Petitioner

Ellis Buffenstein with Currie Motors – He has been with Currie Motors for 35 years. The Valparaiso store has exceeded their expectations. They need vehicles to be on the lot. They were in total agreement with the easement for the water to flow onto their lot. The only problem was water was staying right in the middle of the lot. That is why they had to regrade the lot. They have no problem with the easement, but asked Mr. Wise to help pay to redirect the water as they had designed it to go off their lot. They have to have this dealership in Valparaiso. They have a large service area. They service trucks in this area. Trucks take a lot of space. The alternative is to move out of Valpo. They are asking Wise Guys to help pay.

Beth Shrader – The easement is not something that is being decided tonight. Any further talk about the easement should be left between the property owners.

Richard Anderson – They started this project because Currie complained about the water. Wise Guys gave McMahon \$4,000 to do a spreader to spread the water out. They have spent \$4,000 with Currie’s Engineers to take care of this problem. Now all of a sudden it is still not good enough. They spent their money based on the plan of Currie’s engineer.

Questions/Comments from the Board

Beth Shrader – This is multiple layers of development standards and use restrictions. Tonight the BZA is looking at two different sections of the Code. They are looking at the overlay standards for US 30 and some of the standards for base zoning in a commercial zone. She showed the boundary of where the overlay standards apply on this site. Behind that line, they are in compliance with the landscape ratio. What they are showing here is also in compliance with the buffer yard requirement. They have to screen any visible storage. The other variances that are being looked at are a result of being in the US 30 Corridor Overlay District. The issue is there is new paving. There is some sort of loose paving that was put down without permits. Outside storage is not permitted in the US 30 Corridor Overlay District. The expansion of the non-conforming use is what they are seeking relief from. Additionally the standards for LSR are in conflict with what they are proposing. In the overlay district, they need 25% LSR and they are not achieving that. They are proposing 18% if they keep the entire paved area. They are asking for no additional landscape. It is absolutely normal that we expect on site landscape that is commensurate with a new development that is before the Board. From staff’s perspective, there is no reason to provide any leniency on the on lot landscape requirements. It should be pretty easy to meet and there is plenty of space to do it. There is no requirement in location. She will leave it up to the Board. This was expanded without permit. It is not allowed by the corridor overlay. It is up to the Board to decide if it makes sense for them to keep this area they took over without permission. Overall, looking at the US 30 corridor, there is not another place in Valparaiso that is better for car lots. We don’t expect cars to all be inside. There will be some outside display of merchandise for car lots. If it is going to be somewhere in Valparaiso, the City thinks US 30 is the location. That is one element of the overlay standard that staff wants to address in the future. As it stands right now, it is not permitted.

Bill Oeding – Are the vehicles that are parked in Valparaiso, sold in Valparaiso? Or is that a storage for your other locations?

Ellis Buffenstein – Everything is sold in the community.

Frank Herrera with Currie Motors – Most of the cars on the lot are sold by our dealership here.

Attorney Patrick Lyp – Just to be certain, what you are saying is that approximately 95% of the cars stored on the lot are sold by that dealership to customers coming into that location there.

Frank Herrera – Yes. It is not being used for storage for any other location.

Kyle Yelton – Since that crumbled gravel is already there, are there other things they could do to help?

Beth Shrader – Their proposal is to pave all the area that is in the darker grey area. That does aesthetically improve what is there now. The issue is it violates the landscape ratio that is required for this area. That is why there is a variance. And they are requesting no landscaping.

Frank Herrera – They pride themselves on the way their facility looks. They are facility minded. They make sure there are no holes in the front line. All the vehicles are parked properly. They are an extension of the community. They have presence. They pride themselves in doing things that are very high standard. That is why they are number one.

Bill Oeding – How does that work with the big truck sitting on a dirt mound in a vacant lot on the east side of your building? If presence is such an important part of your business, is that a good look?

Frank Herrera – They will take a look at that.

Bill Oeding – If you pave the back area, where does the water go?

Doug Homeier – The runoff coefficient is the same for drainage calculations. It will continue to go to the east. The difference is now you get erosion. Once the asphalt is put down, it will be easier to plow and maintain.

Bill Oeding – So the water will come from the West and go to the creek behind Sementos.

Doug Homeier – The proposal is the release structure from the pond to west of that into a swale was discussed. It will be recontoured.

Bill Oeding – Wise Guys had to dedicate so much easement for water runoff but Currie isn't required to do that?

Beth Shrader – The development of the Wise Guys property happened before any of the staff here was present. That was her first Plan Commission meeting. It was the secondary plat approval for the Wise Guys project, which still is not approved. It is supposed to work that the same standards are applied for storm water. She knows there are lots of challenges and existing conditions to work around in this area of the City. That would go for Wise Guys and Currie. Generally the drainage just flows east from one site to another. That is the natural drainage pattern predevelopment. When Wise Guys developed they had some sort of agreement, not necessarily recordable, but an agreement that an easement would be provided by Currie to Wise Guys to allow overflow from their detention pond onto the Currie site. They have not been able to secure that easement, so they have not been able to get their secondary plat approval or their Certificate of Occupancy. There are some issues between the property owners. From the City's perspective from the beginning, the expectation was that there is an

easement that clearly connects the outfall onto the Currie site. The development plan that is here shows how that will work functionally, but the easement has not been established.

Richard Anderson – (He did not come forward to the microphone so a lot was inaudible.) The nature of what he said was that Wise Guys have a detention pond and Currie is not doing what they are supposed to do. The Wise Guys building is being held up while Currie is doing whatever he wants.

Ellis Buffenstein – All they want is Wise Guys to help pay for having the water re-directed.

Kyle Yelton – It sounds like the two of them have something to talk about outside of the meeting. One of his hangups with this request is no additional landscaping. A way to class up the site is additional landscaping.

Ellis Buffenstein – They can put trees on the side. They cannot put them in front because then people cannot see the cars as they drive by.

Bill Oeding – He was looking at a picture. If they have cars all against the tree line, where will the swale be? Will it be directed into the forest?

Doug Homeier– There are scrub trees on the property. To build the swale, they will have to remove trees and then replant to meet the landscape requirements. It will be worked out and reviewed by Matt Zurbruggen to make sure it is ok. Water will be taken out of the detention of Wise Guys, direct it so it will be going north 50' before it turns east and will follow the original path. If you get a big heavy rain and there is no pond, in 10 minutes it is gone. If it goes in a detention pond, it sits for 24 hours and then keeps hitting the same spot as it runs out.

Paul Reed – His concern was that everything that was done was done without any concern for the way things were supposed to be done. They put down crushed limestone without asking. There are rules.

Doug Homeier - We are here tonight to try to fix it. All the other car dealers are right there. It is convenient to be able to see them all. They are trying to bring this into compliance. They have been working with Beth and the Engineering Department.

Paul Reed – He referred to a photo. Is the edge the property line?

Doug Homeier – It is past that. He discussed his plan of redirecting run off and paving an area. He is here tonight to talk about a plat that has been presented and is in front of you. There needs to be discussion about the other things.

Diane Worstell – How big is the Currie Motors site?

Beth Shrader - 8.65 acres.

Diane Worstell – You have grown so much in the last couple of years. How big is your facility in Illinois? She wondered if they will be expanding more and will they have the room. She asked if the land behind Team Chevy is available.

Beth Shrader – On the third page of the staff report, there is a recent aerial that shows they are parked almost to the property line on the northern edge. The area they are using now for parking will shrink in order to accommodate the swale. This was a target of Code Enforcement before Currie brought the petition to the BZA. It does have to be a paved surface unless you get special permission from the Engineering Department. They can't be parking on grass or dirt. That wouldn't be allowed in the future either, so whatever is allowed here in terms of paved surface, that will be the extent for this property and they would expect no more visits to the BZA.

Paul Reed – How many cars do you park now?

Frank Herrera – We have 400 on the lot.

Paul Reed – And you are projecting what for the future?

Frank Herrera – Probably about the same. If we get many more, we can park at Valparaiso University.

Beth Shrader – Parking at the University is also a Code Enforcement issue.

Paul Reed – The area they park currently, is that disappearing in their proposal and was that figured in the LSR?

Beth Shrader – It appears it was not figured in the LSR. Parking on grass or gravel is not allowed. They will be restricted to parking on the new asphalt surfaces.

Doug Homeier – The intention is that there will be no grass surfaces. There will be defined swales along the northern boundary and along the eastern boundary which will prohibit parking.

Beth Shrader – What Paul is pointing out is there is a gravel area. The expectation is that the gravel that has been laid down would be returned to sod and you would be restricted to parking just on the asphalt that is existing right now.

Frank Herrera – We are not parking there.

Beth Shrader – We have arial images showing you are.

Bill Oeding – What year did you do your building addition in the back?

Ellis Buffenstein – About 5 years ago.

Bill Oeding – Was that primarily to handle your truck business?

Ellis Buffenstein – Yes.

Bill Oeding – So by doing that did you create a problem for yourself?

Ellis Buffenstein – It was a way to stay in Valparaiso.

Beth Shrader – She would recommend handling each variance request separately. If there is the intent to deny any one of the variances, she thinks they should have Findings prepared.

Attorney Patrick Lyp - He has some concerns about the Findings of Fact that were submitted. Regardless of how the BZA wants to handle this he asked for time until the next meeting to put together appropriate Findings of Fact. Zero percent on the landscaping appears to be a concern. Hopefully between now and the next meeting there will be some conversation. It might be welcome to hear that there has been progress made on the easement. The City would like to get the Certificate of Occupancy resolved with Wise Guys. The water running from one property to another needs to be memorialized in some way. With the documents that are before the Board tonight, he would have some concern whichever way the Board decides to go.

Motion: Bill Oeding moved to table Cases UV23-001 and VAR23-002 until the April 19th meeting. Mark Ribordy seconded the motion and passed with a 5-0 roll call vote.

Roll Call Vote:

Paul Reed – Yes

Bill Oeding –Yes

Mark Ribordy – Yes

Diane Worstell – Yes

Kyle Yelton – Yes

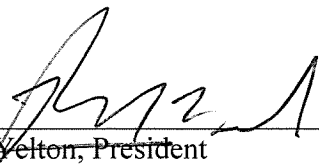
ADJOURNMENT

Motion: Paul Reed moved to adjourn the meeting. Mark Ribordy seconded the motion and so approved with a 5-0 voice vote.

NEXT MEETING: April 19, 2023, 5:30 p.m.



Beth Shrader, Executive Secretary



Kyle Yelton, President
PAUL REED, VP